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1 Lisa Holder, CSB No. 217752  
2 Lisa Noxon Holder, PC  
3 3710 Earnhardt Drive  
4 Bakersfield, CA 93306  
5 661.205.2385  
6 Lholder@Lnhpc.com  
7 www.Lnhpc.com

8 Attorneys for Trudi G. Manfredo, Chapter 7 Trustee

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**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

In re:  
  
James Floyd Cannon and  
Jamie Darlene Cannon,  
  
Debtors.

Case No. 15-11835-A-7  
Chapter 7  
DC No. LNH-1  
**Trustee’s Motion Under Rule 9019  
to Approve Compromise of  
Property of the Estate Dispute**  
  
Date: August 22, 2018  
Time: 9:00 a.m.  
Place: United States Courthouse  
2500 Tulare Street, 5th Floor  
Courtroom 11  
Fresno, California  
Judge: Hon. Fredrick E. Clement

**TO THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT  
OF CALIFORNIA:**

The *Trustee’s Motion Under Rule 9019 to Approve Compromise of Property of  
the Estate Dispute* (“Motion”), filed by Trudi G. Manfredo, Chapter 7 Trustee  
 (“Trustee”) for the Chapter 7 estate of James Floyd Cannon and Jamie Darlene  
 Cannon (“Debtors”), is brought to resolve the dispute between Debtors and the  
 Trustee regarding who owns the legal malpractice claim (“Claim”) asserted against  
 Robert S. Williams and Williams & Williams, Inc. (together, “Williams”).

///

1           **Motion:** To approve the compromise of the disputed ownership of the Claim  
2 between Trustee and Debtors. Under the compromise:

- 3           1. Debtors will prosecute the Claim in their own name(s), with their counsel of  
4 choice, in their forum of choice, and have 100% control over the litigation,  
5 including trial and settlement;
- 6                 a. Debtors' counsel will be paid its fees and expenses without further  
7 application to this court;
- 8                 b. The Claim is not property of the estate;
- 9           2. In exchange, Trustee will:
- 10                 a. Receive one-third of the "Net Litigation Proceeds," defined as the  
11 gross settlement or judgment less Debtors' attorney's fees & costs;
- 12                 b. Receive a consensual lien against the litigation to secure payment;
- 13           3. This is essentially a secured contractual obligation for Debtors to pay  
14 Trustee one-third of the Net Litigation Proceeds in exchange for Trustee  
15 releasing her interest in the Claim.

16           **Authority:** FRBP Rule 9019; 11 U.S.C. § 704(a)(1).

17           **Notice and opposition:** LBR 9014-1(f)(1), 28-days notice, written opposition  
18 required 14 days before the hearing.

19           **Order requested:** Granting the Motion as described in the prayer for relief.

20           The Motion is based on this moving paper, the memorandum of points and  
21 authorities, the declarations of Jared Walder and Trudi G. Manfredo, the notice of  
22 hearing, the exhibits, any reply documents filed by Trustee, and argument of counsel  
23 at the hearing. The statement of facts is in the memorandum of points and authorities.

24           **The prayer for relief requested is:**

25           WHEREFORE, Trustee prays that the Court make and enter its order:

- 26           1. Entering the default of parties that failed to respond;
- 27           2. Granting the *Trustee's Motion Under Rule 9019 to Approve*  
28 *Compromise of Property of the Estate Dispute;*

1           3.     Authorizing Debtors to litigate the Claim in their own name(s), with  
2 their counsel of choice, in their forum of choice, with 100% control over the  
3 litigation, including trial and settlement;

4           4.     Deeming the Claim is Debtors' property, not property of the estate;

5           5.     Debtors' counsel is not engaged as, and is not deemed to be,  
6 counsel for Trustee and the estate, and need file no application with this court  
7 for approval its fees and expenses;

8           6.     Debtors be required to pay Trustee one-third of the "Net Litigation  
9 Proceeds," defined as the gross settlement or judgment less Debtors' attorney's  
10 fees & costs (whether resolved by settlement or by trial);

11          7.     Debtors be required to give a consensual lien in favor of Trustee  
12 and the estate for the estate's one-third share of the Net Litigation Proceeds;

13          8.     Authorizing Trustee, without further court order, to pay Debtors'  
14 counsel such attorney's fees and costs as are incurred and attributable to  
15 Trustee's one-third share of the litigation proceeds; including authorizing  
16 Debtor's counsel to deliver to Trustee the estate's share, with an accounting;

17          9.     Requiring Debtors to respond within seven days to Trustee's  
18 reasonable requests for information regarding the litigation Claim's status;

19          10.    Authorizing Trustee, on behalf of the bankruptcy estate, to  
20 otherwise release Trustee's and the estate's interest in the Claim;

21          11.    Waiving the 14-day stay of enforcement under Fed. R. Bankr.  
22 Proc., Rule 7062; and

23          12.    Granting such other relief as the Court deems proper.

24 Dated: July 25, 2018

Lisa Noxon Holder, PC

25 By 

26 Lisa Holder, Attorneys for  
27 Trudi G. Manfredo, Chapter 7 Trustee

28 ORIGINAL